

REMARKS

This is in response to the Final Office Action dated September 14, 2010. All pending claims 1-11, 13-16, 19, 22, 24 are presented for reconsideration and favorable action.

Comments on novelty and non-obviousness of the pending independent claims 1 and 22

Upon review of the Office Action of September 14, 2010, we have come to the opinion that the Examiner most likely has misunderstood a number of features of the setting device according to pending claim 1 and of the parking brake according to pending claim 22, and that his objection to the claims with regard to novelty is based on this misunderstanding. In the following, the important differences of the subject-matters of the independent claims of the present application and the disclosure of prior art document Arnold et al. (US 5,180,038) are pointed out again:

Novelty:

According to pending independent claim 1, the connection of the hollow shaft and the spindle shaft of the device according to the present invention has the following properties:

- The connection is formed "in a manner that **enables the hollow shaft to rotate**";
- The connection is formed "in a manner (...) that **enables the spindle shaft to advance**";
- The connection is formed "in a manner (...) that **enables the spindle shaft (...) to actuate a brake cable**"; the Applicant holds the view that thereby, it is well claimed in pending claim 1 that the cable is actuated by the spindle shaft, and thus respectfully disagrees with the position of the Examiner set forth under item 6 of the Office Action.

Further, according to the subject-matter of pending independent claim 1, there is a connection between the remotely-operated drive and the hollow shaft with the following properties:

- The connection is **able to transmit torque**;
- The connection "**enables the hollow shaft to move axially** relative to the remotely operated

drive".

From the Office Action, page 2, it appears that the hollow shaft of the present invention has been interpreted as corresponding to the movable member 8 described in prior art document Arnold et al. In addition, it appears that the spindle shaft of the present invention has been interpreted as corresponding to the drive screw 36 of Arnold et al.

In the Office Action, it is set forth that the movable member 8 disclosed in Arnold et al. is enabled to rotate (page 2, item 3). However, Figure 1 of Arnold et al. makes clear that **this cannot be the case**. As has been explained in our response to the previous Office Action, according to Arnold et al., rotation of the drive screw 36 causes displacement of the movable member 8 (col. 3, lines 58 to 64). Figure 1 of Arnold et al. shows that the drive screw 36 is supported by tapered roller bearings in order to make such a rotation of the drive screw 36 possible. **If, however, the movable member 8 was also enabled to rotate, how then should the displacement of movable member 8, which is intended to pull the brake cable, be accomplished ?** Further, it is to note here that due to the shifting movement of the movable member 8, the ends of main spring 30, as shown in Figure 1 of Arnold et al., will be pressed against the inner wall of the housing and against a collar of the movable member 8. There will thus be a high degree of friction between the housing and the main spring 30 as well as between the main spring 30 and the movable member 8, and the important frictional forces will prevent any rotation (which would, in any case, be unintended) of movable member 8 when the drive screw 36 is rotated.

So, in conclusion, Arnold et al. does not disclose a hollow shaft which is enabled to rotate.

Next, as has already been set forth as well in the response to the preceding Office Action, drive screw 36 of Arnold et al. is maintained against longitudinal movement 2 by means of the tapered roller bearings. Therefore, the **drive screw 36 will not be able to advance**. From the drawings of the present application, as, for example, supplied in Figures 3 and 5, the features in lines 5 and 6 of presently pending independent claim 1 are very clearly to be construed as enabling the spindle shaft itself to advance.

Furthermore, Arnold et al. states that "the inner cable member 20 being fastened within an opening 22 contained in the end wall of the movable member by suitable fastener means 24" (col. 3, lines 26 to 29; see also claim 1 (b) of Arnold et al.). Although, as indicated in the description of Arnold et al., the rotation of drive screw 36 is the cause for the displacement of movable member 8, the brake cable is actually actuated by this movable member 8. This is immediately clear from Figure 1, because actuation of the brake cable requires shifting movement to pull it, but the drive screw 36 does not exhibit any such shifting movement.

It is thus seen, that already the telescopic device of pending claim 1 of the present invention is significantly different from the arrangement of the movable member 8 and the drive screw 36 disclosed in document Arnold et al. Already due to these differences, the subject-matter of pending claim 1 is new with regard to this document.

Moreover, in the Office Action, it has been argued that there would be a torque-transmitting connection between the drive screw 36 and the movable member 8 of Arnold et al., which would be formed by nut 42 and the threaded portion 42a. From Figure 1 of Arnold et al. (and claim 1 (d) (2) and (3)), it is apparent that the threaded portion 42a is only provided to fasten the nut 42 - which itself is not connected to the drive screw 36 in a torque-transmitting manner - to the movable member 8. The threaded portion 42a, however, appears only to be provided in order to allow simpler manufacture of the movable member 8. Alternatively, nut 42 and movable member 8 could also be formed in one piece, which would not change anything in the working principle of the device. Apparently, the Examiner interprets the connection of nut 42 and movable member 8 to represent a connection between a remotely-operated drive and a hollow shaft. The Applicant respectfully disagrees with this interpretation.

A connection of the direct current motor 50 of Arnold et al. (col. 5, line 68; considered to correspond to some kind of drive) and the movable member 8 would require both a torque-transmitting connection between nut member 42 and the movable member 8 (which the Examiner assumes to be present through the threading 42a) and a torque-transmitting connection of the drive screw 36 and the nut member 42. It can, however, be appreciated from Figure 1 of

Arnold et al. and the respective description that the connection of drive screw 36 and nut member 42 is formed in such a manner that the rotation of drive screw 36 imparts an axial force onto nut 42. This is, of course, the purpose of the arrangement of Arnold et al.. An additional torque-transmitting connection of drive screw 36 and nut member 42, however, will not make any sense in the arrangement of Arnold et al. and also cannot be inferred from the specification or the figures.

It is further noted that in the light, in particular, of the drawings and their detailed explanation in the present application, it is inappropriate to construe the formulation "torque-transmitting connection between the remotely-operated drive and the hollow shaft" of presently pending claim 1 as meaning "torque-transmitting connection located, without any relation to the function of the device, somewhere in the space in between the drive and the hollow shaft".

Thus, it can be appreciated that Arnold et al. also does not disclose the nature of the connection between the remotely-operated drive and the hollow shaft, as stated in currently pending claim 1 of the present invention.

These arguments can apply in like manner to the subject-matter of presently pending independent claim 22.

Hence, the subject-matters of claims 1 and 22 as currently on file are new in the sense of 35 USC § 102.

Non-obviousness

The nature of the technical problem a person having ordinary skill in the art has to solve, as well as the solution according to present claims 1 and 22 and the corresponding advantages have already been explained in the response of the Applicant to the Office Action dated May 11, 2010.

Further, the reasons for which a person skilled in the art could not arrive at the subject-matter of the pending independent claims 1 and 22 have been detailed there already as well. It is emphasized again that Arnold et al. does not provide any hints for the person skilled in the art with regard to modifying the device of Arnold et al. to comprise any or all of the differing features of the setting device or the parking brake of the present invention, as they are indicated

above under item "Novelty".

Hence, claims 1 and 22 as currently on file also fulfill the non-obviousness requirement of 35 USC § 103.

It is believed that all of the pending claims have been addressed. However, the absence of a reply to a specific rejection, issue, or comment, including the Office Action's characterizations of the art, does not signify agreement with or concession of that rejection, issue, or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment or cancellation of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment or cancellation. Applicant reserves the right to prosecute the rejection claims in further prosecution of this or related applications.

In view of the above amendments and remarks, it is believed that the present application is in condition for allowance. Consideration and favorable action are respectfully requested.

The Director is authorized to charge any fee deficiency required by this paper or credit any overpayment to Deposit Account No. 23-1123.

Respectfully submitted,

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